

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

)
) **MDL No. 1456**
) **Master File No. 01- 12257-PBS**
) **Subcategory Case. No. 06-11337**
)

THIS DOCUMENT RELATES TO:

) **Hon. Patti B. Saris**

*United States of America ex rel. Ven-A-Care of the
Florida Keys, Inc., et al. v. Dey, Inc., et al.,*
Civil Action No. 05-11084-PBS

) **Magistrate Judge**
) **Marianne B. Bowler**
)
)

**DEFENDANTS DEY, INC., DEY PHARMA, L.P., AND DEY L.P., INC.'S
CONSENTED TO MOTION FOR LEAVE TO FILE A SUR-REPLY
IN OPPOSITION TO UNITED STATES' MOTION TO
EXCLUDE CERTAIN OPINIONS OF W. DAVID BRADFORD, PH.D.**

Pursuant to Rule 7.1(b)(3) of the Local Rules for the District of Massachusetts, Defendants Dey Pharma, L.P. (formerly known as Dey, L.P.), Dey, Inc., and Dey L.P., Inc. (collectively "Dey"), seek leave of the Court to file a sur-reply in opposition to Plaintiff United States of America's (the "Government") Motion to Exclude Certain Opinions of W. David Bradford, Ph.D. Counsel for Dey has conferred with counsel for the Government, who has indicated that the Government consents to this motion. The proposed Sur-Reply Memorandum of Law in Opposition to the United States' Motion to Exclude Certain Opinions of W. David Bradford, Ph.D. is annexed hereto as Exhibit A, and the Declaration of Sarah L. Reid in support

of Dey's sur-reply and accompanying exhibits are annexed hereto as Exhibit B.

Dated: May 7, 2010

Respectfully Submitted,

KELLEY DRYE & WARREN LLP

By: /s/ Sarah L. Reid

Paul F. Doyle (BBO # 133460)

Sarah L. Reid (*pro hac vice*)

William A. Escobar (*pro hac vice*)

Neil Merkl (*pro hac vice*)

101 Park Avenue

New York, NY 10178

Telephone: (212) 808-7800

Facsimile: (212) 808-7897

Martin F. Murphy, BBO #363250

Robert E. Toone, BBO #663249

FOLEY HOAG LLP

155 Seaport Boulevard

Boston, MA 02210

Telephone: (617) 832-1000

*Attorneys for Defendants Dey Pharma, L.P.
(formerly known as Dey, L.P.), Dey, Inc.,
and Dey L.P., Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by causing to be sent, on May 7, 2010, a copy to LexisNexis File & Serve for posting and notification to all parties.

_____/s Sarah L. Reid